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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

Report of the Secretary-General

Summary

The present report has been submitted pursuant to paragraph 12 of General Assembly resolution 57/25 of 19 November 2002. It highlights the measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions; reviews the capacity and modalities within the Secretariat for implementing the intergovernmental mandates and for addressing the main findings, including recommendations of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions (A/53/312, chap. IV) and also reviews recent developments related to the role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in the area of assistance to third States affected by the application of sanctions.

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I. Introduction

1. At its fifty-seventh session, the General Assembly adopted, without a vote, resolution 57/25 of 19 November 2002, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions". In the resolution, the General Assembly, inter alia:

(a) Renewed its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

(b) Welcomed the measures taken by the Security Council since the adoption of General Assembly resolution 50/51 of 11 December 1995, most recently the note by the President of the Council of 15 January 2002 (S/2002/70), whereby the members of the Council agreed to extend the mandate of the informal working group of the Council established in 2000 (see S/2000/319) to develop general recommendations on how to improve the effectiveness of United Nations sanctions, looked forward to the adoption of the proposed outcome document of the working group, in particular the provisions thereof regarding the issues of the unintended impact of sanctions and assistance to States in implementing sanctions, and strongly recommended that the Council continue its efforts to enhance further the effectiveness and transparency of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

(c) Invited the Security Council, its sanctions committees and the Secretariat to continue to ensure, as appropriate, that (i) both pre-assessment reports and ongoing assessment reports include as part of their analysis the likely and actual unintended impact of the sanctions on third States and recommend ways in which the negative impact of sanctions can be mitigated; (ii) sanctions committees provide opportunities for third States affected by sanctions to brief them on the unintended impact of sanctions they are experiencing and on assistance needed by them to mitigate the negative impact of sanctions; (iii) the Secretariat continues to provide, upon request, advice and information to third States to help them to pursue means to mitigate the unintended impact of sanctions, for example, on invoking Article 50 of the Charter for consultation with the Security Council; (iv) where economic sanctions have had severe effects on third States, the Security Council is able to request the Secretary-General to consider appointing a special representative or dispatching, as necessary, fact-finding missions on the ground to undertake necessary assessments and to identify, as appropriate, possible ways of assistance; (v) the Security Council is able, in the context of situations referred to in subparagraph (c) (iv) above, to consider establishing working groups to consider such situations;

(d) Requested the Secretary-General to pursue the implementation of resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157 and 56/87 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

(e) Welcomed the report of the Secretary-General containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States (A/53/312), and renewed its invitation to States and relevant international organizations within and outside the United Nations system which had not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

(f) Took note of the most recent report of the Secretary-General (ibid.), in particular, of his views on the deliberations and main findings, including the recommendations, of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, as well as the views of States, the organizations of the United Nations system, international financial institutions and other international organizations, as contained in the previous reports of the Secretary-General (A/54/383 and Add.1 and A/55/295 and Add.1);

(g) Reaffirmed the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

(h) Took note of the decision of the Economic and Social Council, in its resolution 2000/32 of 28 July 2000, to continue its consideration of the question of assistance to third States affected by the application of sanctions, invited the Council, at its organizational session for 2003, to make appropriate arrangements for that purpose within its programme of work for 2003 and decided to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (A/57/165 and Add.1), together with the relevant background materials, to the Council at its substantive session of 2003;

(i) Invited the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, the special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for that purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including

through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

(j) Requested the Secretary-General to submit a report on the implementation of the resolution to the General Assembly at its fifty-eighth session.

2. The present report has been prepared in compliance with the request contained in paragraph 12 of the resolution (see para. 1 (j) above).

II. Measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions

3. Pursuant to the note by the President of the Security Council of 15 January 2002 (S/2002/70), members of the Security Council agreed that Ambassador Martin Belinga-Eboutou (Cameroon) would serve until 31 December 2003 as Chairman of the informal working group of the Council to develop general recommendations on how to improve the effectiveness of United Nations sanctions. The working group held several formal and informal meetings in order to finalize its proposed outcome document. The document, based on the work of the group since it was established in April 2000, remains under active consideration, with focus being placed on those issues where agreement has yet to be reached, in particular regarding the duration of sanctions.

4. At its 4713th meeting, held on 25 February 2003, concerning general issues relating to sanctions (S/PV.4713), the Security Council heard a briefing by the State Secretary for Foreign Affairs of Sweden, Hans Dahlgren, on the results of the Stockholm Process on the Implementation of Targeted Sanctions. The findings were presented in a booklet entitled "Making Targeted Sanctions Effective — Guidelines for the Implementation of UN Policy Options" and were the result of a process initiated by the Swedish Government that had lasted over a year and had engaged government officials, non-government organizations, the United Nations Secretariat, regional organizations and international institutions, as well as academics and experts from various areas with expertise in the field of sanctions implementation. At the meeting, members of the Security Council acknowledged that targeted sanctions continue to be a useful tool to focus pressure on individuals or entities while minimizing the unintended impact on civilian populations and third States.

5. In accordance with paragraph 10 of its resolution 1483 (2003) of 22 May 2003, the Security Council decided that, with the exception of prohibitions related to the sale or supply to Iraq of arms and related materiel other than those arms and related materiel required by the Authority, as referred to in the resolution, to serve the purposes of that resolution and other related resolutions, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992) of 2 October 1992, shall no longer apply.

III. Review of the capacity and modalities of the Secretariat for implementing the intergovernmental mandates and recommendations of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions

6. The Secretary-General has taken note of paragraph 4 of General Assembly resolution 57/25 (see para. 1 (d) above). The arrangements that were put in place in the Secretariat in 1996, as described in the report of the Secretary-General of that year (A/51/317, paras. 4-11), as well as in the 1997 and 2002 reports (A/52/308, para. 5, and A/57/165, para. 9, respectively), continue to apply. It should be noted that since those arrangements were based on "existing resources", the overall budgetary resources currently available to the departments concerned would have to be maintained in the future.

7. It is also understood that the existing arrangements for interdepartmental cooperation do not preclude further cooperation between the relevant departments, as appropriate, and that the setting in motion of the functions contemplated in several subparagraphs of paragraph 3 of General Assembly resolution 50/51 depends on a request by either the Security Council, its organs or interested Member States.

8. The Secretary-General has provided, and will continue to provide, his full support for the intergovernmental deliberations on issues under review, as well as his views and recommendations, as required, in order to ensure the implementation of relevant intergovernmental mandates in a timely and efficient manner.

IV. Views provided by Governments and relevant international organizations regarding the report of the ad hoc expert group meeting and related issues of international assistance to third States affected by the application of sanctions

9. In accordance with paragraphs 5 and 9 of General Assembly resolution 57/25 (see paras. 1 (e) and (i) above), States and relevant international organizations within and outside the United Nations system that had not yet done so were invited to provide their views regarding the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions, as contained in the 1998 report of the Secretary-General on the subject (A/53/312, chap. IV). The communications on the matter received in 1999 and 2000 from Governments and relevant international organizations and institutions within and outside the United Nations system were summarized in the previous reports of the Secretary-General (A/54/383 and Add.1 and A/55/295 and Add.1, respectively). Since then, no additional comments have been received.

V. Recent developments related to the role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in the area of assistance to third States affected by the application of sanctions

10. Pursuant to paragraph 7 of General Assembly resolution 57/25 (see para. 1 (g) above), the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination have continued to play their respective roles in the area of assistance to third States affected by the application of sanctions.

General Assembly

11. In its resolution 56/110 of 14 December 2001, the General Assembly requested the Secretary-General to report on the implementation of the resolution on economic assistance to the Eastern European States affected by the developments in the Balkans at its fifty-eighth session. Consequently, the item, to be considered on a biennial basis, has been inscribed on the agenda of the fifty-eighth session of the Assembly.

Economic and Social Council

12. By a note dated 9 May 2003 on assistance to third States affected by the application of sanctions (E/2003/63), the Secretary-General drew the attention of the members of the Economic and Social Council to General Assembly resolution 57/25, in particular to paragraph 8 (see para. 1 (h) above), in which the Assembly decided to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/57/165 and Add.1).

13. At its substantive session of 2003, held in Geneva from 30 June to 25 July 2003, the Economic and Social Council adopted its decision 2003/309 of 25 July, taking note of the note by the Secretary-General (E/2003/63) and the report transmitted by the General Assembly (A/57/165 and Add.1).

Committee for Programme and Coordination

14. The Committee for Programme and Coordination, at the 6th meeting of its forty-third session, held in New York from 9 June to 9 July 2003, considered the annual overview report of the United Nations System Chief Executives Board for Coordination (CEB) for 2002 (E/2003/55), which included, at the request of the Committee, a section on assistance to countries invoking Article 50 of the Charter of the United Nations. It was noted in the overview report that, as reflected in previous reports of the Secretary-General, the relevant components of the United Nations system and related organizations, including the international financial institutions, were fully aware of the special needs and situations of the countries invoking Article 50. In presenting the overview report to the Committee, it was noted that, regrettably, countries invoking Article 50 had received little relief so far. It was suggested that the principal governing bodies, i.e., the Security Council, the General Assembly and the Economic and Social Council, might therefore wish to consider

ways and means of mobilizing resources and providing greater relief for the affected countries.

15. In its conclusions and recommendations on the foregoing matter, the Committee for Programme and Coordination recommended that CEB play a role in better coordinating the analysis of the problems of the countries invoking Article 50 of the Charter, and the development of new methodologies to identify the damage to affected States and new mechanisms to determine the appropriate compensation for them (A/58/16, para. 581).